

United States Environmental Protection Agency
Region 2
290 Broadway, 17th Floor
New York, New York 10007-1866

Attn: Thomas Taccone, Lauren Charney

Dear Mr. Taccone and Ms. Charney:

This letter is in response to your inquiries regarding my knowledge of property I purchased at 198 Mill Street, Lockport, New York, on October 26, 1999. Most of your questions are not applicable to my purchase or subsequent activity on my part on the property; I have walked through the property several times since 1999 but have made no improvements or removed anything from the premises. Also, I have paid zero taxes on the property. Basically, I bought the property and have "sat" on it ever since.

A representative of the DEC, approximately six months after my purchase of the property - for \$50 in a foreclosure tax sale - advised me not to remove anything from the land. "Test wells" on the property appeared weeks after I bought the Mill Street property.

My original plan was to harvest old building stone strewn about the property, to be sold by me to contractors or home builders; I never removed one stone. All of these years I have simply been the "owner" of the property, with no knowledge of toxic wastes, hazardous substances or other contaminants other than those made public.

I have little paperwork for the property other than a "deed," outlining property boundary lines. Again, I have done nothing with the land since my purchase.

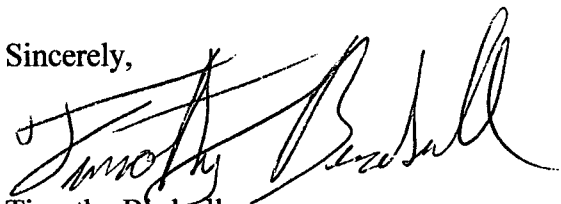
I have owned an unoccupied house and lot at 109-111 Clinton Street in Lockport, approximately four or five city blocks from the Mill Street property for several years. I have hopes of restoring the house but those plans are on hold; the purchase of the house had or does not have any connection to the Mill Street property, which I bought from the City of Lockport.

In previous correspondence to your office, I told you that I own a small, non-hazardous debris-removing business; that is still true. The business is in no way connected to Mill Street and I have never hauled away any of the property's stone.

I apologize for not knowing more details about my purchase. In retrospect, I wouldn't do it again. Paperwork related to the property, as I have indicated, is minimal and I have no knowledge of chemicals of dangerous substances or, for that matter, the history of the possible wastes buried there.

If I can be of further help, please feel free to contact me. Hard-copy will follow.

Sincerely,



Timothy Birdsall

2666 Grace. Ave., Newfane, NY 14078

Nov. 1, 2012

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REQUEST FOR INFORMATION

1. List the properties that you or your Company owns or operates or previously owned or operated, within 5 miles of the shoreline of Eighteen Mile Creek or one of its tributaries (including the New York Barge Canal, formerly, the Erie Canal) and all other properties that may impact or may have impacted the Site. For each property, provide the following information:
 - a. State the name, address, and the nature of your interest (ownership, lease, etc.) in the property. Identify the dates of your interest and provide copies of all documents concerning this interest (e.g. deeds, leases, etc.).
 - b. Provide a detailed description of the operations, processes, and business activities at each property. If the operations changed over time, indicate the nature of the changes and the dates the changes took place.
 - c. If you leased any portion of the property to another entity, please identify the entity, the nature of its operations, and provide copies of any leases.
 - d. Provide copies of any maps, property plans, or floor plans, both current (if still in operation) and past, of each property. The floor plan should depict all drainage sumps, above-ground and below-ground discharge piping, and above-ground and underground storage tanks.
 - e. Provide any historic photographs including aerial photographs and photographs showing construction, industrial or commercial processes, outfalls, and indoor and outdoor storage of materials or products.
 - f. Provide copies of all reports, information, or data you have related to the geology, soil, water (ground, surface, and storm water), air and the overall environmental conditions at each property.
2. List all hazardous substances and industrial wastes that are or were used, stored, generated, handled, or received at each property identified in your response to question 1. Be as specific as possible in identifying each chemical or waste stream, and provide, among other things, the chemical name, brand name, chemical content, and the process it was used for at each property. State when and what volume or weight of each hazardous substance and industrial waste was used, stored, generated, handled, or received at each property.
 - a. Provide copies of all Material Safety Data Sheets and Right-to-Know Notices for raw materials used at each property.
 - b. Describe how each hazardous substance or industrial waste was stored at each property (e.g. underground storage tanks, above-ground storage tanks, etc.). Provide a map indicating the location where these substances were stored.

- j. it is a spent product which could be reused after rehabilitation; or
 - k. it is any material which you have reason to believe would be toxic if either ingested, inhaled, or placed in contact with your skin.
6. As used herein, the term "release" shall have the meaning set forth in Section 101(22) of CERCLA, 42 U.S.C. § 9601(22).
 7. As used herein, the term, "Site" shall refer to the Eighteen Mile Creek Site located in Niagara County, NY.
 8. All terms not defined herein shall have their ordinary meaning, unless such terms are defined in CERCLA, in which case the statutory definitions shall apply.

4. Describe any environmental response actions (e.g. soil excavation, groundwater treatment, etc) performed at any of the properties identified in your response to question 1 and provide any documents concerning the response action. Identify the location, dates, and the results of all analyses or tests performed for each response action.
5. Identify all individuals who currently have or had responsibility for the environmental matters (e.g. responsibility for the disposal, treatment, storage, recycling, or sale of hazardous substances or industrial wastes) at the properties identified in your response to question 1. Provide each individual's job title, duties, dates performing those duties, supervisors for those duties, current position, and the nature of the information possessed by such individuals concerning the waste management at the property.
6. Provide copies of all local, state, and federal environmental permits applied for or issued with respect to any property identified in your response to question 1. Provide copies of all notices of violations, or administrative or judicial complaints filed by federal, state, county, or municipal governments and their regulatory agencies as well as copies of all judicial complaints filed by other persons, including corporate entities or public interest groups, concerning permit violations.
7. Have you, your Company, or any affiliate, contractor, or individual associated with your Company been a party to any litigation, either as plaintiff or defendant, that involved liability for contamination of or from any of the properties identified in your response to question 1? If yes, identify the litigation, describe the nature of your involvement in the litigation, and provide a copy of the pleadings and any final order.
8. Have you, your Company, or any affiliate, contractor, or individual associated with your Company been accused of any criminal violation in connection with the operations at any of the properties identified in your response to question 1? If yes, describe the nature of the proceeding and provide copies of documentation associated with the proceeding.
9. If applicable, describe the closure of each facility located at the properties identified in your response to question 1. Your answer should include, but not be limited to, when the closure of the facility occurred, how waste material was disposed of, and whether any waste material was left onsite.
10. List all current or prior owners that you are aware of for each property identified in your response to question 1. If known, identify and provide copies of any documents of the following information for each prior owner:
 - a. the dates of ownership and operations conducted at such times;
 - b. any corporate affiliation between you or your Company and each such prior owner;
 - c. release of hazardous substances and industrial waste at each property during the period of ownership.

- c. Explain in detail the manner of transportation or disposal of the hazardous substances and industrial wastes generated, handled, treated, or stored at each of the properties. Provide the names and addresses of all transporters and disposal facilities used for each type of hazardous substance or industrial waste generated. State when each transporter and disposal facility was used and identify the total volume or weight of material that was transported or disposed of by that entity. Provide copies of all documents that relate to your answers above, including but not limited to, invoices, manifests, hazardous substances, hazardous and industrial waste data and analyses or characterizations, contracts, and agreements with transporting, treatment, storage, or disposal facilities.
3. State whether any hazardous substances and industrial wastes were ever released, discharged, or disposed of either intentionally or unintentionally at each property identified in your response to question 1. Your answer should address, but not be limited to, instances in which any volume of hazardous substances or industrial wastes were spilled, leaked, or caught fire from drums, tanks, or any other containers. For each release identified in your response to this question:
 - a. Identify when and how each release event occurred.
 - b. Identify the composition of each of the materials released, including the chemical content, characteristics, and form (solid, liquid, sludge, or gas), and the quantity of each material released.
 - c. Describe the method of release (spill, fire, leak, discharge, etc.) and how the material was containerized (if at all) at the time of release. Describe what response actions, if any, were taken to address these releases.
 - d. Identify the locations at the property where each release/disposal occurred. Please enclose a map indicating the release/disposal location.
 - e. If hazardous substances were disposed into drains or drainage areas, describe the nature and the approximate quantity of those wastes disposed each month, and the location to which those wastes drained.
 - f. If any of the substances released into the environment from these properties were treated prior to release, describe the treatment process, the years during which treatment occurred, quantities of substances treated, the chemical composition of discharged treated substances, and whether discharges were continuous or intermittent.
 - g. If you, your Company, or a contractor, lessee, tenant, or agent ever contacted, provided notice to, or made a report to EPA, the New York State Department of Environmental Conservation, Niagara County, the City of Lockport, or any other government entity concerning an incident, accident, spill, release, or other event, provide copies of all communications with that government entity.

conditions at or around any property which may be identified in your response to this letter's Request for Information. For each document or response you claim is confidential, you must separately address the following points:

- a. the portions of the information alleged to be entitled to confidential treatment;
- b. the period of time for which confidential treatment is desired (e.g., until a certain date, until the occurrence of a specific event, or permanently);
- c. measures taken by you to guard against the undesired disclosure of the information to others;
- d. the extent to which the information has been disclosed to others, and the precautions taken in connection therewith;
- e. pertinent confidentiality determinations, if any, by EPA or other federal agencies, and a copy of any such determination or a reference to them, if available; and
- f. whether it is your assertion that disclosure of the information would likely result in substantial harmful effects on your business' competitive position, and if so, what those harmful effects would be, why they should be viewed as substantial, and an explanation of the causal relationship between disclosure and such harmful effects.

To make a confidentiality claim, please stamp or type "Confidential" on all confidential responses and any related confidential documents. Confidential portions of otherwise non-confidential documents should be clearly identified. Please submit your response so that all non-confidential information, including any redacted versions of documents, are in one envelope and all materials for which you desire confidential treatment are in another envelope.

All confidentiality claims are subject to EPA verification. It is important that you satisfactorily show that you have taken reasonable measures to protect the confidentiality of the information, that you intend to continue to do so, and that it is not and has not been obtainable by legitimate means without your consent. Information covered by such a claim will be disclosed by EPA only to the extent permitted by CERCLA Section 104(e) and 40 C.F.R. Part 2, Subpart B. If no such claim accompanies the information when it is received by EPA, then it may be made available to the public by EPA without further notice to you.

DEFINITIONS

1. The phrase "your Company" refers to any business entity in which you have a controlling interest. This includes any business entity as it is currently named and constituted and all subsidiaries, divisions, and branches as well as any predecessors and successors of that entity.
2. The terms "document" and "documents" include any written, recorded, computer-generated, or visually or orally reproduced material of any kind in any medium in your possession, custody, or control, or known by you to exist, including originals, all prior drafts, and all non-identical copies.
3. The term "hazardous substance" shall have the meaning set forth in Sections 101(14) and 102(a) of CERCLA, at 42 U.S.C. §§ 9601(14) and 9602(a). The substances which have been designated as hazardous substances pursuant to Section 102(a) of CERCLA (which, in turn, comprise a portion of the substances that fall within the definition of "hazardous substance" under Section 101(14) of CERCLA) are set forth at 40 CFR Part 302.
4. The term "identify" means, with respect to a natural person, to set forth the person's name, present or last known employer, business address, business telephone number, present or last known home address, and home telephone number. With respect to a corporation, partnership, business trust, or other association or business entity (including a sole proprietorship) the term "identify" means to provide its full name and address.
5. As used herein, the term "industrial waste" shall mean any solid, liquid, or sludge or any mixture thereof which possesses any of the following characteristics:
 - a. it contains one or more "hazardous substances" (at concentration) as defined in 42 U.S.C. § 9601(14);
 - b. it is a "hazardous waste" as defined in 42 U.S.C. § 6903(5);
 - c. it has a pH less than 2.0 or greater than 12.5;
 - d. it reacts violently or generates toxic gases when mixed with water;
 - e. it easily ignites or explodes;
 - f. it is an industrial waste product;
 - g. it is an industrial treatment plant sludge or supernatant;
 - h. it is an industrial byproduct having some market value;
 - i. it is coolant water or blow down waste from a coolant system;

11. Identify any current or previous insurance policies that may indemnify you or your Company against any liability that you or any entity may incur in connection with the release of hazardous substances or industrial waste at the Site. Please provide a copy of the policy. For any policy that you cannot locate or obtain, provide the name of the carrier, years in effect, nature and extent of coverage, and any other relevant information you have.
12. Supply any additional information that may be used to identify additional sources of information or parties involved with the Site.
13. State the name, title, and address of each individual who assisted or was consulted in the preparation of the response to this Request for Information.
14. State whether any documents provided in response to this Request for Information have been claimed or marked confidential.

CERTIFICATION OF ANSWERS TO REQUEST FOR INFORMATION

State of New York

County of Niagara

I certify under penalty of law that I have personally examined and am familiar with the information and all documents submitted in response to EPA's Request for Information, and based on my personal inquiry or my inquiry of those individuals immediately responsible for obtaining the information I believe that the submitted information is true, accurate, and complete, and that all documents submitted herewith are complete and authentic unless otherwise indicated. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment. I am also aware that I am under a continuing obligation to supplement my response to EPA's Request for Information if any additional information relevant to the matters addressed in EPA's Request for Information or the company response thereto should become known or available to me or the company.

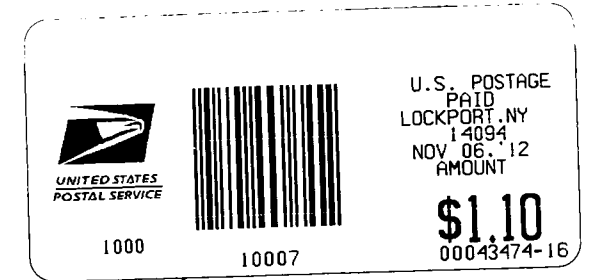
Timothy Birdsall
NAME (print or type)

TITLE (print or type)
Timothy Birdsall
SIGNATURE

Sworn to before me this day of _____, 2012

Notary Public

Timothy Birdsall
2666 Grace Ave
NewFane N.Y. 14108



U.S. Environmental Protection Agency
Region II
290 Broadway
New York, New York 10007-1866
ATT: Thomas Taccone and/or Lauren P Charney

